

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 2892 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAHENDERKUMAR MADHAVJI PARMAR

Versus

STATE OF GUJARAT

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Appearance:

MR YS LAKHANI for Petitioner

Mr K P Raval, APP for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/01/97

ORAL JUDGEMENT

This Criminal Revision Application is directed against the order dated 3.7.1995 passed below Exh.2 in Sessions Case No.42/90 passed by the learned Sessions Judge, Junagadh.

2. The petitioner is facing trial for offences punishable under sections 379, 447, 411, 413 of the Cr.P.C. and 114 of the Indian Penal Code pending in the Court 9of the learned Sessions Judge, Junagadh. It is alleged that the accused No.1,2 and 3 collusively had

stolen 10 new drums along with aluminium wire worth Rs. 2.5 lakhs and they have sold the same to the accused No.4. The charge-sheet was filed as back as in October, 1988. However, as the trial did not proceed, the present petitioner who is accused No.3 in the said case, filed application Exh.3 saying that there is absolutely no evidence against him to charge him for offences under section 413 and in view of this appropriate order under section 228 of the Cr.P.C. be passed. The learned Judge, instead of going into the merits of the case and examining whether there is any evidence implicating the accused for offences under section 413, rejected the application simply on the ground that the applicant has adopted dilatory tactics for getting the charges framed at an earlier stage. Even if it was a strategy adopted by the accused, in my view, there is nothing wrong in it. It is the right of every accused to have a speedy trial. In my view, the impugned order of the learned Sessions Judge is not sustainable in the eye of law. The incident is of 1988. The accused persons are employees and are under suspension, and therefore, there is justification in their demand for speedy trial. In view of the aforesaid, this Revision Application is allowed. The impugned order dated 3.7.1995 is quashed and set aside. The learned Sessions Judge is directed to take up the entire matter on priority basis and hear the accused persons for the framing of charge and if there is no material to implicate the accused applicants for offence under section 413 of the Cr.P.C., appropriate order under Section 228 will follow. Rule made absolute to the aforesaid extent. Direct Service permitted.

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